LAW AND CONTEMPORARY PROBLEMS

VOLUME 37
1972

SCHOOL OF LAW · DUKE UNIVERSITY

COPYRIGHT © 1972, 1973 BY DUKE UNIVERSITY

PRINTED IN THE UNITED STATES OF AMERICA, BY
THE SEEMAN PRINTERY, INC., DURHAM, NORTH CAROLINA 27707

LAW AND CONTEMPORARY PROBLEMS

A QUARTERLY PUBLISHED BY THE DUKE UNIVERSITY SCHOOL OF LAW

Subscription Price: $12.00 per Year; Foreign, $13.00. Single Copies: $4.00; Foreign, $4.50

JOHN C. WEISTART, *Editor*

ROBINSON O. EVERETT, *Associate Editor*

STEPHEN A. HILDEBRANDT, JOHN K. KELLER, JOHN R. MILLER, NANCY R. SHAW, AND PETER D. WEBSTER, *Student Editorial Assistants*

EDITORIAL ADVISORY BOARD

WILLIAM G. ANLYAN, ARTHUR LARSON, JOHN C. MCKINNEY, A. KENNETH PYE, MELVIN G. SHIMM, JOSEPH J. SPENGLER, AND CLIVE M. SCHMITTHOFF (London).

Views expressed in articles published in this periodical are to be attributed to their authors and not to the periodical, its editors, or Duke University.

CONTENTS

WINTER, 1972

ADMINISTRATIVE DISCRETION

		PAGE
FOREWORD	*Clark C. Havighurst*	1
DECISIONS, DECISIONAL REFERENTS, AND ADMINISTRATIVE JUSTICE	*Daniel J. Gifford*	3
ON DAVIS ON CONFINING, STRUCTURING, AND CHECKING ADMINISTRATIVE DISCRETION	*Victor G. Rosenblum*	49
JUDICIAL AND ADMINISTRATIVE REVIEW OF GOVERNMENT CONTRACT AWARDS	*Richard E. Speidel*	63
SEC NO-ACTION LETTERS: INFORMAL ADVICE AS A DISCRETIONARY ADMINISTRATIVE CLEARANCE	*William J. Lockhart*	95
PRESIDENTIAL SPENDING DISCRETION AND CONGRESSIONAL CONTROLS	*Louis Fisher*	135
SOME COMMENTS ON THE ROLE OF DISCRETION IN MILITARY JUSTICE	*Robinson O. Everett*	173

SPRING, 1972

EXPANSION OF THE COMMON MARKET

	Page
Foreword — *Robinson O. Everett and John C. Weistart*	219
Perspectives on European Unification — *Dean Rusk*	221
British Entry into the Common Market: A British View — *Brian L. Crowe*	228
The United States, the European Community, and Prospects for a New World Economic Order — *John M. Leddy*	235
Legal Dimensions of British Entry into the European Community — *Werner Feld*	248
Some Tax Implications of British Entry into the Common Market — *Norman I. Miller*	265
National and Supranational Law in the EEC on the Eve of British Entry — *P. John Kozyris*	286
The Multinational Corporation in the Enlarged European Community — *Brian D. Forrow*	306
Harmonization of European Company Laws — *Eric Stein*	318
Antitrust in the Common Market: Innovation and Surprise — *Sigmund Timberg*	329
Comments on Acquisitions and Mergers in the Common Market — *Henry T. King, Jr.*	341
Protection of Inventions and Know-How in the Common Market — *J. Gibson Semmes*	351
Legal Implications of British Entry into the Common Market — *Terence M. Lane*	359
State Aids, State Monopolies, and Public Enterprises in the Common Market — *Pierre Mathijsen*	376

SUMMER, 1972

EAST-WEST TRADE: PART I

Kazimierz Grzybowski
Special Editor for this Symposium

	Page
Foreword — *Kazimierz Grzybowski*	393
United States-Soviet Union Trade Agreement of 1972 — *Kazimierz Grzybowski*	395
The System of Trade Between Japan and the East European Countries, Including the Soviet Union — *Yataro Terada*	429
The Framework of Anglo-Soviet Commercial Relations: The British View — *Kenneth M. Starr*	448
Soviet Foreign Trade Agencies Abroad: A Note — *John Quigley*	465
Legal Aspects of Foreign Investment in Yugoslavia — *Miodrag Sukijasovic*	474
The Law of Foreign Trade in the People's Republic of Bulgaria — *Ivan Sipkov*	485
The Law of Foreign Trade in the Polish People's Republic — *Tadeusz Sadowski*	506

AUTUMN, 1972

EAST-WEST TRADE: PART II

KAZIMIERZ GRZYBOWSKI
Special Editor for this Symposium

PAGE

FOREWORD ..... *Kazimierz Grzybowski* 533

MARXISM-LENINISM AND SOVIET-AMERICAN ECONOMIC RELATIONS SINCE STALIN ..... *Jerry Pubantz* 535

RECENT DEVELOPMENTS IN EAST-WEST TRADE: THE U.S. PERSPECTIVE ..... *A. Peter Parsons* 548

LEGAL ASPECTS OF SOVIET-JAPANESE TRADE ..... *Tokusuke Kitagawa* 557

THE STATUS OF STATE TRADING ENTITIES IN FRANCE ..... *Andrew Reish* 571

YUGOSLAV TRADE WITH EEC AND COMECON COUNTRIES ..... *Mihalo Jovanovic* 586

ARBITRAL TRIBUNALS FOR FOREIGN TRADE IN SOCIALIST COUNTRIES ..... *Kazimierz Grzybowski* 592

PROCEDURAL RIGHTS OF ALIENS BEFORE TRIBUNALS IN POLAND ..... *Ludwig Kos-Rabcewicz-Zubkowski* 611

FOREIGN TRADE LAW OF ROMANIA ..... *George J. Roman* 652

A SELECTIVE BIBLIOGRAPHY OF EAST-WEST COMMERCIAL RELATIONS 682

ARTICLE INDEX

VOLUME 37

ANTITRUST IN THE COMMON MARKET: INNOVATION AND SURPRISE, 329

ARBITRAL TRIBUNALS FOR FOREIGN TRADE IN SOCIALIST COUNTRIES, 592

BRITISH ENTRY INTO THE COMMON MARKET: A BRITISH VIEW, 228

COMMENTS ON ACQUISITIONS AND MERGERS IN THE COMMON MARKET, 341

DECISIONS, DECISIONAL REFERENTS, AND ADMINISTRATIVE JUSTICE, 3

FOREIGN TRADE LAW OF ROMANIA, 652

FRAMEWORK OF ANGLO-SOVIET COMMERCIAL RELATIONS: THE BRITISH VIEW, THE, 448

HARMONIZATION OF EUROPEAN COMPANY LAWS, 318

JUDICIAL AND ADMINISTRATIVE REVIEW OF GOVERNMENT CONTRACT AWARDS, 63

LAW OF FOREIGN TRADE IN THE PEOPLE'S REPUBLIC OF BULGARIA, THE, 485

LAW OF FOREIGN TRADE IN THE POLISH PEOPLE'S REPUBLIC, THE, 506

LEGAL ASPECTS OF FOREIGN INVESTMENT IN YUGOSLAVIA, 474

LEGAL ASPECTS OF SOVIET-JAPANESE TRADE, 557

LEGAL DIMENSIONS OF BRITISH ENTRY INTO THE EUROPEAN COMMUNITY, 248

LEGAL IMPLICATIONS OF BRITISH ENTRY INTO THE COMMON MARKET, 359

MARXISM-LENINISM AND SOVIET-AMERICAN ECONOMIC RELATIONS SINCE STALIN, 535

MULTINATIONAL CORPORATION IN THE ENLARGED EUROPEAN COMMUNITY, THE, 306

NATIONAL AND SUPRANATIONAL LAW IN THE EEC ON THE EVE OF BRITISH ENTRY, 286

ON DAVIS ON CONFINING, STRUCTURING, AND CHECKING ADMINISTRATIVE DISCRETION, 49

PERSPECTIVES ON EUROPEAN UNIFICATION, 221

PRESIDENTIAL SPENDING DISCRETION AND CONGRESSIONAL CONTROLS, 135

PROCEDURAL RIGHTS OF ALIENS BEFORE TRIBUNALS IN POLAND, 611

PROTECTION OF INVENTIONS AND KNOW-HOW IN THE COMMON MARKET, 351

RECENT DEVELOPMENTS IN EAST-WEST TRADE: THE U. S. PERSPECTIVE, 548

SEC NO-ACTION LETTERS: INFORMAL ADVICE AS A DISCRETIONARY ADMINISTRATIVE CLEARANCE, 95

SELECTIVE BIBLIOGRAPHY OF EAST-WEST COMMERCIAL RELATIONS, A, 682

SOME COMMENTS ON THE ROLE OF DISCRETION IN MILITARY JUSTICE, 173

SOME TAX IMPLICATIONS OF BRITISH ENTRY INTO THE COMMON MARKET, 265

SOVIET FOREIGN TRADE AGENCIES ABROAD: A NOTE, 465

STATE AIDS, STATE MONOPOLIES, AND PUBLIC ENTERPRISES IN THE COMMON MARKET, 376

STATUS OF STATE TRADING ENTITIES IN FRANCE, THE, 571

SYSTEM OF TRADE BETWEEN JAPAN AND THE EAST EUROPEAN COUNTRIES, INCLUDING THE SOVIET UNION, THE, 429

UNITED STATES, THE EUROPEAN COMMUNITY, AND PROSPECTS FOR A NEW WORLD ECONOMIC ORDER, THE, 235

UNITED STATES-SOVIET UNION TRADE AGREEMENT OF 1972, 395

YUGOSLAV TRADE WITH EEC AND COMECON COUNTRIES, 586

AUTHOR INDEX

VOLUME 37

CROWE, BRIAN L., 228
EVERETT, ROBINSON O., 173, 219
FELD, WERNER, 248
FISHER, LOUIS, 135
FORROW, BRIAN D., 306
GIFFORD, DANIEL J., 3
GRZYBOWSKI, KAZIMIERZ, 393, 395, 533, 592
HAVIGHURST, CLARK C., 1
JOVANOVIC, MIHALO, 586
KING, HENRY T., JR., 341
KITAGAWA, TOKUSUKE, 557
KOS-RABCEWICZ-ZUBKOWSKI, LUDWIG, 611
KOZYRIS, P. JOHN, 286
LANE, TERENCE M., 359
LEDDY, JOHN M., 235
LOCKHART, WILLIAM J., 95
MATHIJSEN, PIERRE, 376
MILLER, NORMAN I., 265
PARSONS, A. PETER, 548
PUBANTZ, JERRY, 535
QUIGLEY, JOHN, 465
REISH, ANDREW, 571
ROMAN, GEORGE J., 652
ROSENBLUM, VICTOR G., 49
RUSK, DEAN, 221
SADOWSKI, TADEUSZ, 506
SEMMES, J. GIBSON, 351
SIPKOV, IVAN, 485
SPEIDEL, RICHARD E., 63
STARR, KENNETH M., 448
STEIN, ERIC, 318
SUKIJASOVIC, MIODRAG, 474
TERADA, YATARO, 429
TIMBERG, SIGMUND, 329
WEISTART, JOHN C., 219

An Index to Modern Legal Problems

On each of the following topics, LAW AND CONTEMPORARY PROBLEMS has published or will publish a symposium dealing with the legal, economic, administrative, and other social-science aspects of the subject. The date indicates the year of publication.

Academic Freedom	1963
Administrative Discretion	1972
Administrative Regulation	1961
African Law	1962
Agricultural Adjustment in the South	1934
Air Cargo	1950
Air Pollution Control	1968
Alcoholic Beverage Control	1940
Alimony	1939
Antipoverty Programs	1966
Antitrust Laws and Single-Firm Conduct	1965
Atomic Power Development	1956
Aviation Transport	1946
Banking†	1966, 1967
Children of Divorced Parents	1944
Close Corporation	1953
Collection of Real Property Taxes	1936
Collective Bargaining Under the Wagner Act	1938
Combating the Loan Shark	1941
Commercial Arbitration†	1952
Commercial Code†	1951
Communications†	1969
Community Economic Development†	1971
Consumer Credit Reform	1968
Consumption Taxes	1941
Cooperatives	1948
Correction of Youthful Offenders	1942
Crime and Correction	1958
Delivered Pricing	1950
Divorce: A Re-Examination of Basic Concepts	1953
East-West Trade†	1972
Electoral Process†	1962
Emergency Price Control Act	1942
Enemy Property	1945
European Regional Communities	1961
Excess Profits Taxation	1943
Expansion of the Common Market	1972
Expert Testimony	1935
Farm Tenancy Legislation	1937
Federal Courts	1948
Federal Employers' Liability Act†	1953
Federal Income and Estate Taxation	1940
Federal Powers Over Crime	1934
Financial Protection for the Motor Accident Victim	1936
Financing Small Business	1945
Food, Drug, and Cosmetic Legislation	1939
Government Marketing Barriers	1941
Government Contracts†	1964
Government Tort Liability	1942
Health Care†	1970
Hemispheric Trade	1941
Historic Preservation	1971
Home Financing	1938
Housing	1947
Housing: Perspectives and Problems	1967
Housing: The Federal Role	1967
Immigration	1956
Instalment Selling	1935
Institutional Investments	1952
Institutionalized Presidency, The	1970
International Commodity Agreements	1963
International Control of Propaganda	1966
International Human Rights†	1949
International Trade Barriers	1946
Interterritorial Freight Rates	1947
Investment of Trust Funds	1938
Judicial Ethics	1970
Jurimetrics	1963
Labor Dispute Settlement	1947
Labor in Wartime	1942
Land Planning in a Democracy	1955
Legislative Reapportionment	1952
Literary and Artistic Products and Copyright Problems	1954
Loan Shark Problem Today	1954
Low-Cost Housing and Slum Clearance	1934
Medical Care	1939
Medical Progress and the Law	1967
Middle East Crisis: Test of International Law	1968
Migratory Divorce	1935
Narcotics	1957
Nationalization of British Industries	1951
New Look in Corporation Law	1958
New Trends in the Conflict of Laws	1963
Obscenity and the Arts	1955
Old Age Security and Welfare Titles of the Social Security Act	1936
Patent System†	1947, 1948
Police Practices	1971
Population Control	1960
Presidential Office	1956
Preventive Law of Conflicts	1956
Price Control in a Cold War	1954
Price Discrimination and Price Cutting	1937
Privacy	1966

† Published in two parts, priced separately.

Private Insurance	1950	Small Business	1959
Problems of the Aging	1962	Soviet Impact on International Law	1964
Protection for the Consumer of Food and Drugs	1933	State Trading	1959
Public Authorities	1961	Tax Simplification and Reform	1969
Radio and Television†	1957, 1958	Trade-Marks in Transition	1949
Railroad Reorganization	1940	Transatlantic Investment	1969
Regulation of Insurance	1950	Transportation†	1959, 1960
Regulation of Natural Gas	1954	"Unauthorized Practice of Law" Controversy	1938
Religion and the State	1949	Unemployment Compensation	1936
River Basin Development	1957	Unification of Law	1965
Safety	1968	Uniformity in Financial Accounting	1965
School Pupils and the Law	1955	Urban Housing and Planning	1955
Secured Commercial Financing	1948	Urban Problems and Prospects	1965
Securities Act†	1937	Urban Renewal†	1960, 1961
Securities Regulation	1964	Wage Earners' Life Insurance	1935
Sentencing	1958	Wage and Hour Law	1939
Sex Offenses	1960	War Claims	1951
Sherman Antitrust Act and Its Enforcement	1940	War Contract Renegotiation	1943
		War Contract Termination†	1944
		Water Resources	1957

† Published in two parts, priced separately.

Subscriptions: $12.00 per year ($12.35 Canada and Pan America; $13.00 other foreign).

Single Copies: $4.00 each. Vols. 1-10 (pre-1945) available only from Fred B. Rothman & Co. or Kraus Periodicals, Inc. Their addresses are below.

Bulk Orders: On orders for ten or more copies of a single issue a discount of 20% is applicable, f.o.b. Durham, N. C.

Complete Sets, etc.: Orders for complete sets, runs, and complete volumes should be placed with either of the following:

Fred B. Rothman & Co.
57 Leuning Street
So. Hackensack, N. J. 07606

Kraus Periodicals, Inc.
Route 100
Millwood, N. Y. 10546

Prices (f.o.b. shipping point)—Vols. 1-10: unbound, $16.00 per volume; bound, $20.00 per volume. Vols. 11 to date: unbound, $12.00 per volume; bound, $16.00 per volume. Complete bound set (vols. 1-35), $600.00.

LAW AND CONTEMPORARY PROBLEMS

DUKE STATION DURHAM, NORTH CAROLINA

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION
39 U.S.C. § 3685 (1970)

LAW AND CONTEMPORARY PROBLEMS is published quarterly: Winter, Spring, Summer and Autumn of each year. The Office of Publication and the General Business Office are located at Room 027, Duke University School of Law, Durham, North Carolina 27706. The Publisher is Duke University School of Law. The Editor is John C. Weistart, Room 026, Duke University School of Law, Durham, North Carolina 27706. The Owner is Duke University, Durham, North Carolina 27706. There are no known bondholders, mortgagees, or other security holders. The average total press run of copies of each issue during the preceding twelve months was 3400, of which 2100 were distributed by mail to paid subscribers, 179 were distributed free of charge, and 1121 were allocated for single copy and bulk sales by mail. For the single issue nearest the filing date of the Statement of Ownership, Management and Circulation with the United States Post Office, 3900 were printed. Of this number 2200 were distributed by mail to paid subscribers, 150 were allocated for free distribution, and 1550 were allocated for single copy and bulk sales by mail.